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Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Financial and any other implications resulting from the introduction of a staff retention bonus at the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia

Report of the Advisory Committee on Administrative and Budgetary Questions

1. The Advisory Committee on Administrative and Budgetary Questions has considered the report of the Secretary-General on the financial and other implications resulting from the introduction of a staff retention bonus at the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia (A/61/522). During its consideration of the report, the Committee met with the President, the Registrar and the Chief Administrative Officer of the International Tribunal for the Former Yugoslavia and with the Deputy Prosecutor of the International Criminal Tribunal for Rwanda, as well as with other representatives of the Tribunals and representatives of the Secretary-General, who provided additional information and clarifications.

2. As stated in paragraph 9 of the report of the Secretary-General, the unique status of the Tribunals "is anchored in the fact that: (a) their mandate is temporary in nature; (b) a large proportion of their staff perform specialized functions not normally found in the United Nations system; and (c) they will both close down in

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accordance with the completion strategies". The difficulties experienced by the Tribunals in respect of their staffing situation, with high vacancy and turnover rates, is a matter of long-standing concern. The situation reached a critical point in 2004 when, inter alia, a recruitment freeze was put into effect owing to the serious financial situation of the Tribunals, caused by the non-payment of contributions. With large numbers of staff departing the Tribunals, including from senior positions, and leaving behind vacant posts that could not be filled, vacancy rates rose steeply, putting the schedule of the completion strategy at risk (see A/59/561, paras. 9-12 and annex). In view of this situation, the General Assembly requested the Secretary-General to submit proposals on ways to improve the staffing situation at the Tribunals in the context of the proposed budget for the biennium 2006-2007 and to make every effort to reduce vacancy rates and improve staff retention at the Tribunals (see resolutions 59/273 and 59/274), including by extending the contracts of staff performing functions that are central to the implementation of the completion strategy beyond the period of the current budget. In the report submitted in response to that request (A/60/436), the Secretary-General put forward a package of measures for improving staff retention at the Tribunals, some of which could be adopted within existing regulations, as well as a proposal for the establishment of a retention bonus. The Advisory Committee encouraged the Secretary-General to implement the measures within his purview and requested him to present an analysis of the financial and any other implications resulting from the introduction of a retention bonus for the staff who are required to remain with the Tribunals until their posts are no longer required (A/60/591, paras. 44-48). The report under consideration was submitted by the Secretary-General pursuant to resolutions 60/241 and 60/243, in which the General Assembly endorsed the recommendations of the Committee.

3. **The Advisory Committee notes the improvement in turnover rates (see annex I), achieved through the implementation of the following measures under the authority of the Secretary-General, and encourages the Tribunals to pursue their efforts in this regard:**

(a) Extension of the length of contracts of all staff from one year to two years;

(b) Establishment of an internal G-to-P examination;

(c) Reduction of required post incumbency from two years to one year before staff can apply for posts at a higher level;

(d) Recruitment of qualified spouses;

(e) Expansion of training options offered.

4. With respect to the completion strategy of the Tribunals, the Advisory Committee recalls that in its resolution 1503 (2003) of 13 August 2003 the Security Council called for the completion of investigations by the end of 2004, all trial activities at first instance by the end of 2008 and all work, including appeals, by 2010. This timetable was subsequently confirmed by the Council in its resolution 1534 (2004) of 26 March 2004. In their reports to the Security Council in the second quarter of 2006 (see S/2006/353 and S/2006/358), both Tribunals reported that all efforts were being made to stay within the time frame of the completion strategy insofar as possible. The Committee was informed that a new update on the progress

made towards the implementation of the completion strategy will be submitted to the Council before the end of 2006.

5. The report before the Advisory Committee is mostly general in nature, building upon the previous report of the Secretary-General on staff retention issues (A/60/436). It provides explanations of the critical importance of retaining necessary staff to ensure the continued smooth functioning of the Tribunals until the completion of their mandates, the probable impact of high turnover rates on the functioning of the Tribunals and the loss of productivity and institutional knowledge.

6. However, the report does not provide much of the detailed information on the financial and other implications resulting from the introduction of a retention bonus that the Advisory Committee had sought. The figures presented in tables 1 and 2 are based on general assumptions derived from a survey of staff. In the case of the International Criminal Tribunal for Rwanda, it is assumed that up to 70 per cent of the General Service staff will qualify for a retention bonus owing to the difficult conditions in the local labour market. **In the opinion of the Committee, these estimates should be determined more precisely, on the basis of a drawdown plan that establishes clearly the expertise, functions and posts that will be required during the foreseeable phases of the completion strategy.** In this connection, the Committee requested additional information on the numbers of staff by seniority, category and grade, which is contained in annex 2 below.

7. In its last report on this matter, the Advisory Committee indicated that it saw merit in the requirement to retain necessary staff to ensure the continued smooth functioning of the Tribunals until the completion of their mandates (A/60/591, para. 48). **It is evident to the Committee that the Tribunals need to provide incentives as a tool to allow them to retain the services of key personnel as long as they are needed by the Tribunals. In the opinion of the Committee, the current proposal of the Secretary-General is too broad and could lead to the creation of a new entitlement, which may very well be used as a precedent, despite the statement in paragraph 9 of the Secretary-General's report that the proposed bonus would apply only to the Tribunals. There could also be implications for the common system as a whole.** During its meetings with the representatives of the Secretary-General, the Committee discussed the possible use of existing staff regulations and rules for creating appropriate incentives for the staff of the Tribunals. Following those discussions, the Committee was provided with additional information indicating that a preliminary analysis showed that, were the General Assembly to so decide, it would indeed be possible to apply existing procedures, with some adaptations.

8. **In view of the above, the Advisory Committee recommends that the General Assembly, with a view to achieving the desired objective, request that the Secretary-General further explore ways and means of applying the existing Staff Regulations and Rules, including annex III thereto (which deals with termination indemnities). To this end, the Committee emphasizes the need to synchronize the timing of the implementation of any additional measures with the time frame of the completion strategy, since the issue of retention of qualified staff will become more acute as the Tribunals approach the completion of their mandate. In this connection, the Secretary-General should prepare a comprehensive proposal with the procedure to be applied, the**

decisions required of the Assembly and a clearer projection of the numbers of staff required to be retained to achieve the stated objective, taking into account the latest updated time frame of the completion strategy. The report should be submitted to the Assembly as early as possible, no later than the time of the next budget submissions of the Tribunals, for the 2008-2009 biennium.

Annex I

Turnover and vacancy rates at the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia

	Turnover rate						*Vacancy rate (percentage)*	
	2004		*2005*		*September 2006*		*September 2006*	
	Yugoslavia Tribunal	*Rwanda Tribunal*	*Yugoslavia Tribunal*	*Rwanda Tribunal*	*Yugoslavia Tribunal*	*Rwanda Tribunal*	*Yugoslavia Tribunal*	*Rwanda Tribunal*
Office of the Prosecutor								
International	65	28	26	23	16	10	4.5	16.4
Locally recruited	58	1	12	0	8	0	1.6	0.0
Total	**123**	**29**	**38**	**23**	**24**	**10**	**3.4**	**16.0**
Registry								
International	40	50	22	33	29	37	7.9	10.2
Locally recruited	82	32	45	20	22	17	2.7	8.2
Total	**122**	**82**	**67**	**53**	**51**	**54**	**4.7**	**8.4**
Overall								
International	105	78	48	56	45	47	6.4	11.5
Locally recruited	140	33	57	20	30	17	2.4	8.0
Total	**245**	**111**	**105**	**76**	**75**	**64**	**4.3**	**10.7**

Annex II

Number of Tribunal staff by years of service as at September 2006

International Criminal Tribunal for Rwanda

	Years of service													
Category	*<1*	*1*	*2*	*3*	*4*	*5*	*6*	*7*	*8*	*9*	*10*	*11*	*12*	*Total*
International	43	79	61	68	73	40	46	55	47	57	50	5	0	624
Locally recruited	13	31	7	40	17	22	27	28	32	49	43	2	0	311
Total	**56**	**110**	**68**	**108**	**90**	**62**	**73**	**83**	**79**	**106**	**93**	**7**	**0**	**935**

Weighted average 5.21925

International Tribunal for the Former Yugoslavia

	Years of service													
Category	*<1*	*1*	*2*	*3*	*4*	*5*	*6*	*7*	*8*	*9*	*10*	*11*	*12*	*Total*
International	80	65	26	38	54	44	34	32	41	9	8	18	13	462
Locally recruited	81	94	47	63	91	59	78	50	47	22	14	16	15	677
Total	**161**	**159**	**73**	**101**	**145**	**103**	**112**	**82**	**88**	**31**	**22**	**34**	**28**	**1 139**

Weighted average 4.33933